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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,750	11/27/2001	Suprio Pal	558-L	3700

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EXAMINER

VEILLARD, JACQUES

ART UNIT	PAPER NUMBER
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2175

4

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,750

Applicant(s)

PAL ET AL.

Examiner

Jacques Veillard

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-15 and 19 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 16-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. This action is responsive to the Applicant's communication filed on 11/27/2001.
2. Claims 1-19 are pending and presented for examination.
3. Claims 1, 10, and 19 are the independent claims. Other claims are the dependent.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 5/19/2003 (Paper No.2) was filed after the mailing date of the application on 11/27/2001. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

5. Claim 11 is objected to because of the following informalities: the method as in claim 9, should be the method as in claim 10. Appropriate correction is required.
6. Claims 4 and 13 are objected to because of the following informalities in line 8 of claims 4 and 13, after tapeset the “;” should be “.”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10-15, and 19 are rejected under 35 U.S.C. 103(a) as being obvious over Sorenson (U. S. Pat. No. 6,324,548) in view of Konrad et al.(U. S. Pat. No.5,404,508, hereinafter Konrad).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

As per claim 1, Sorenson teaches database backup and audit backup in a computer system (See the title and the abstract) including a server accessing a database and a magnetic tape drive, a method for locating a group of audit files from said database on tape (See Fig.1A,

1B , col.3, lines 21-46, and col.4, lines 7-20). Similarly Sorenson's system comprising the steps of: creating a tapeset for said group of audit files (See Fig. 1B, Fig.8, col.1, line 65 through col.2, line 2 and lines 25-44); (b); for each audit file within said group of audit files, locating said audit file within said tapeset using said positional information (See col.5, lines 24-30). Sorenson does not explicitly teach initializing a disk directory file to hold positional information of said tapeset.

However, Konrad teaches a database backup and recovery includes a disk directory file to hold positional information of said tapeset (See col.7, lines 1-5).

It would have been obvious to a person of ordinary skill in the art at the time of the Applicant's invention was made to modify the teachings of Sorenson with the teachings of Konrad to include a magnetic disks or cache disks as suggested by Konrad in order for a user to hold positional information of the tape in directory file fashion.

As per claims 10 and 19, the claims have substantially the same limitations as claim 1. These limitations have already been addressed in the rejection of claim 1. Therefore, they are rejected on similar grounds for the given arguments corresponding to the rejected claim 1 above.

As per claims 2 and 11, the combination of Sorenson and Konrad, as modified, teaches the claimed limitation wherein said group of audit files consists of one or more audit files. (See Sorenson's Figs.2 and 5 wherein the database dumps, the history file and the audit archive consist of one or more audit files).

As per claims 3 and 12, the combination of Sorenson and Konrad, as modified, teaches the claimed limitation wherein said step of locating said audit files within said tapeset also applies to an already existing tapeset and an already existing disk directory file (See Sorenson's col.5, lines 24-30, and col.6, lines 33-44).

As per claims 4 and 13, the combination of Sorenson and Konrad, as modified, teaches the claimed limitation wherein said step for creating said tapeset includes the steps of: selecting a name to uniquely identify said group of audit files (See Sorenson's col.3, lines 49-52, col.4, lines 37-42, and lines 48-53); creating a tape volume marker file with said name (See Sorenson's abstract); writing said tape volume marker file to each volume within said tapeset (See Sorenson's col.5, lines 38-48).

As per claims 5 and 14, the combination of Sorenson and Konrad, as modified, teaches the claimed limitation wherein said step for initializing said disk directory file includes the steps of: creating a disk directory file (See Konrad's col.7, lines 1-3); inserting a disk record as a first entry in said directory file (See Sorenson's Fig.5, and col.5, line 59 through col.6, line 8).

As per claims 6 and 15, the combination of Sorenson and Konrad, as modified, teaches the claimed limitation wherein said step of locating said audit file within said tapeset includes the steps of: determining if said step of locating a said audit file is for appending or for retrieving said audit file, if :said step of locating said audit file is for appending purposes, appending said audit file to said tapeset (See Sorenson's col.3, lines 16-19); if :said step of locating said audit

file ins for retrieving purposes, retrieving said audit file from said tapeset (See Sorenson's col.3, lines 62-67).

Allowable Subject Matter

Claims 7-9, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art taken singularly or in combination fail to teach or suggest: if the tape volume is not loaded on the magnetic tape drive, closing a logical tape for the tape volume and displaying a message to load the tape volume; fast-locating to an end position of the preceding audit file number using information from the disk directory file; closing the logical tape for the tape volume; appending said audit file at the end position; opening said audit file at said start: position of said matching audit file number as recited in dependent claims 7, 8, 16 and 17.

Regarding the dependent claims 9 and 18, the prior art taken singularly or in combination fail to teach or suggest: obtaining a starting position of the audit file; recording the starting position into the audit record entry; obtaining an end position of the audit file; recording the end position into the audit record entry.

Other Prior Art Made of Record

- | | | |
|----|------|---------------------------|
| 7. | Hart | U. S. Pat. No. 6,446,090, |
| | Tam | U. S. Pat. No. 6,411,969, |

Yabumoto

U. S. Pat. No. 5,717,951, and

Hill et al.

U. S. Pat. No. 6,085,200.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. **Any response to this action should be mail to:**

Commissioner of Patent and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 746-7239 (for formal communication intended for entry)

Or:

(703) 746-7240 (for informal of draft communications, please label

"PROPOSED" or "DRAFT")

Hand - delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington.


VA, Fourth Floor Lobby (Receptionist Telephone No. (703) 305-3900).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques Veillard whose telephone number is (703) 305-7094. The examiner can normally be reached Monday through Friday from 9:30 AM to 4: 30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici, can be reached on (703) 305-3830. The fax phone number for this group is (703) 308-5403.


CHARLES RONES
PRIMARY EXAMINER



Jacques Veillard
Patent Examiner TC 2100

April 14, 2004